

## **MINUTES**

### **MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN BILL GLASER**, on February 24, 2003 at 3:00 P.M., in Room 317-C Capitol.

#### **ROLL CALL**

##### **Members Present:**

Sen. Bill Glaser, Chairman (R)  
Sen. Bob Story Jr., Vice Chairman (R)  
Sen. Jerry W. Black (R)  
Sen. Edward Butcher (R)  
Sen. Mike Cooney (D)  
Sen. Jim Elliott (D)  
Sen. Royal Johnson (R)  
Sen. Jeff Mangan (D)  
Sen. Don Ryan (D)  
Sen. Tom Zook (R)

##### **Members Excused:**

**Members Absent:** None.

**Staff Present:** Tari Elam, Committee Secretary  
Connie Erickson, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: SJR 20, 2/21/2003; SB 454,  
2/21/2003  
Executive Action: SJR 20; SB 310; SB 74; SB 454; SB  
267; SB 441; SB 369; SB 278; SB 411

HEARING ON SJR 20

Sponsor: SENATOR DALE MAHLUM

Proponents: Stan Rathman, Governor's Council on Families  
John Vincent, Governor's Council on Families  
Kim Visser, Governor's Council on Families  
Lois M. Reimers, Teacher, Family & Consumer  
Sciences, Missoula and, President, Montana  
Association of Family & Consumer Sciences  
Holly Hunts, Assistant Professor, Montana  
State University (MSU), Bozeman  
Bethany Letieca, Professor, Montana State  
University (MSU), Bozeman, Department of  
Health & Human Development  
Bob Vogel, Director of Government Relations,  
Montana School Boards Association (MTSBA)

Opponents: NONE

Informational Witnesses: NONE

Opening Statement by Sponsor:

*{Tape: 1; Side: A; Approx. Time Counter: 0.8 - 3.7}*

SENATOR DALE MAHLUM, SD 35, Missoula, brought forward a resolution urging high schools to offer instruction in consumer education and relationship skill-based marriage and interpersonal and workplace education and mediation. SEN. MAHLUM stated this resolution arises from the need for students to be more prepared with regard to financial duties and interpersonal relationships. He believes students may be ill-prepared because many follow the model established by their parents who were themselves ill-prepared. Also, because so many families are blended in nature, many students do not receive the type of information they need to have successful marriages and workplace relationships. He would like to see a course offered during a student's senior year.

Proponents' Testimony:

*{Tape: 1; Side: A; Approx. Time Counter: 3.8 - 29.5}*

Stan Rathman, Governor's Council on Families, conveyed his support for the bill. Mr. Rathman testified he has been a member of the Governor's Council on Families since 1996, and the issue of families living in poverty has been a constant factor in all

discussions. So too, issues which lead to a family becoming dysfunctional. Despite believing the family role as primary teacher is of great import, it is within the purview of public education to aid in the process. He outlined the various aspects of the bill, and explained how each would assist in reaching the stated goal. **Mr. Rathman** also submitted written testimony **EXHIBIT(eds41a01)**.

**John Vincent, Governor's Council on Families**, testified, as a representative of the Governor's Council, but even more so as a classroom teacher for thirty years, he has seen an ever increasing need for instruction of this type. He expressed his appreciation to **SEN. MAHLUM** and stated **Mr. Rathman's** testimony sufficiently outlined the goals and methods of the resolution. **Mr. Vincent** believes the resolution recognizes two important factors: 1) the sanctity of local control; and, 2) the provision of practical knowledge to young people. He relayed a story about his own marriage, stating his father made a single request that he and his wife agreed to and they have been married thirty-nine years. He believes students should be provided with this same type of practical information. **Mr. Vincent** respectfully requested the Committee's careful consideration of the bill, and urged they recommend Do Pass.

**Kim Visser, Governor's Council on Families**, testified the Council heard many concerns expressed throughout the state; many of those centered on communication. Communication is central to mediation. She also stated requesting schools teach mediation is not novel, noting forty-three states mandate the teaching of mediation courses in high school. Because Montana has more distinct languages than any other state, she believes mediation skills are extremely important and these skills carry forward to the workplace and later personal relationships. **Ms. Visser** expressed her appreciation to the Committee and requested their positive support.

**Lois M. Reimers, Teacher, Family & Consumer Sciences, Missoula and, President, Montana Association of Family & Consumer Sciences**, conveyed her support of the bill arises for numerous reasons having taught Family & Consumer Sciences and worked with pregnant and parenting teens for nineteen years. Although her course was formerly mandatory, it is now an elective and few students are able to take the course because it is a year-long course. She believes teachers of Family & Consumer Sciences are qualified to meet needs arising from this legislation in the more populated areas of the state. She thanked the Committee, and requested they support the bill. **Ms. Reimers** submitted written testimony **EXHIBIT(eds41a02)**.

**Holly Hunts, Assistant Professor, MSU**, testified, as Program Leader for Family & Consumer Sciences, she provides training to teachers regarding the topics covered by **SJR 20**. **Ms. Hunts** submitted written testimony **EXHIBIT (eds41a03)**.

**Ms. Hunts** also provided the Committee with a packet of information regarding training presently available **EXHIBIT (eds41a04)**.

**Bethany Letieca, Professor, MSU, Department of Health & Human Development**, submitted written testimony **EXHIBIT (eds41a05)**

**Bob Vogel, Director of Government Relations, MTSBA**, conveyed his organization's support for the resolution. **Mr. Vogel** testified when he was a high school senior he had a choice between physics and other courses. He chose a course entitled "Prep for Life." He stated it was one of the best courses he ever had the opportunity of taking. He believes the subject matter of this resolution is very serious, and it should be addressed by local boards of trustees and the Office of Public Instruction. Further, although very important in scope and nature, he also appreciates this legislation is permissive in nature rather than a mandate given present budget constraints.

**Questions from Committee Members and Responses:**

**{Tape: 1; Side: A; Approx. Time Counter: 30 - 31.5}**

**{Tape: 1; Side: B; Approx. Time Counter: 1.5 - 21.5}**

**SENATOR TOM ZOOK**, providing his knowledge on the topic, inquired whether home economics courses formerly taught in high school continue to be offered. **Ms. Reimers** explained Family & Consumer Sciences is the new form of home economics. **SEN. ZOOK** asked whether **Ms. Reimers** would recommend making the course compulsory in order to reach all students. **Ms. Reimers** replied her course was formerly required, however, a shift in focus regarding what is most important in education occurred. Accordingly, the course is now elective.

**Mr. Vincent** indicated he would like to respond to **SEN. ZOOK's** question regarding making the course compulsory. He stated, if the resolution passes, he will extend every effort with Bozeman's School Board to encourage their participation.

**SENATOR DON RYAN** sought clarification on the intent of the resolution, asking whether it would be the long-term intent to make the course mandatory. **Mr. Vincent** replied his intention, as well as those individuals who worked together with him on the

resolution, is to encourage high schools to take the initiative on the matter. Although some school boards and some teachers may argue the course should be mandatory, it is not the intent of the resolution. He believes a tremendous amount of support would be necessary to encourage **OPI** to make the course mandatory. And, because of the number of mandatory courses presently required, may well be virtually impossible. **SEN. RYAN** stated many seniors look to their last year asking questions about what is required to get out of high school. He thinks the measure would be more successful if change occurred internally and through public awareness. He asked if possibly we are looking at the problem from the wrong direction. **Mr. Vincent** agreed change must occur from the inside, but we must start somewhere.

**SEN. RYAN** posed the same question to **Mr. Rathman**. **Mr. Rathman** indicated early in the Council's history the same question arose quite often. He believes the resolution will encourage change in school districts, and will allow members of the Council and others more latitude when approaching various districts.

**SENATOR JEFF MANGAN**, noting he strongly supports the legislation, stated many issues being brought to the forefront--i.e., civil rights, birth control, gay and lesbian rights, etceteras--are central to discussions on families. He asked how those types of issues can be balanced in a course such as this. **Ms. Hunts** replied there is no easy answer to the question. Local school districts set policies regarding sex education and other topics. She is not certain whether anything contained within the proposal will address those concerns. She does believe it is very important to ensure families are functional. If we can get past "what is a family," we will be more close to that goal.

**SENATOR JERRY BLACK** stated he strongly believes this type of resolution is necessary. He asked how many schools presently offer this type of course. **Ms. Reimers** replied, although not certain, she believes most A and AA schools. **SEN. BLACK** inquired about costs associated with putting a course such as this into effect. **Ms. Reimers** responded, in the present financial situation, it would be necessary to cut another course in order to mandate this type of course. **SEN. BLACK** inquired whether that may also be the reason why it has not been fully implemented. **Ms. Reimers** replied in the affirmative and noted the scope of Family & Consumer Sciences may be another reason.

**SEN. BLACK**, referring to **Mr. Rathman's** teaching experience, asked whether many male students take this type of course. **Mr. Rathman** responded it is true male students are a much harder sale for this type of course. He also expressed his thoughts on the overall cost of implementing this type of program, noting he does

not believe they will be exorbitant. He indicated most of the materials could be provided by **MSU** at a very reasonable cost.

**SEN. BLACK** asked whether small schools will have room in their curriculums. **Mr. Rathman** believes they do, and they have space available as well. Although many teachers do not have time, thus necessitating looking outside for instructors, some do. **SEN. BLACK**, in reference to small schools, stated that may be the most difficult obstacle. **Mr. Rathman** agreed, noting he does not believe small schools will offer an entire course.

In response to **SEN. BLACK's** question regarding funding, **Ms. Hunts** offered information regarding federal funding currently available for courses such as this.

**Closing by Sponsor:**

***{Tape: 1; Side: B; Approx. Time Counter: 21.8 - 24.7}***

**SEN. MAHLUM** expressed appreciation to the various parties who appeared to testify. He conveyed a personal story about his own son taking a course such as this, indicating it was a positive experience. **SEN. MAHLUM** also expressed appreciation to the Committee.

**EXECUTIVE ACTION ON SJR 20**

***{Tape: 1; Side: B; Approx. Time Counter: 24.9 - 26}***

**Motion/Vote:** SENATOR ROYAL JOHNSON moved that SJR 20 DO PASS. Motion carried 8-0; with SEN. COONEY voting AYE via proxy, and SENS. BUTCHER and ELLIOTT excused.

**HEARING ON SB 454**

**Sponsor:** SENATOR BOB STORY

**Proponents:** Kris Goss, Education Policy Assistant & Special Projects, Office of Budget & Program Planning (OBPP)

**Opponents:** Tom Bilodeau, Director Research & Bargaining, MEA-MFT  
Bob Vogel, Director of Government Relations, MTSBA

**Informational Witnesses:** Harold Blattie, Montana Association of Counties (MACo)

Amy Carlson, Budget Analyst, Office of Budget & Program Planning (OBPP)

**Opening Statement by Sponsor:**

***{Tape: 1; Side: B; Approx. Time Counter: 26.6 - 28.7}***

**SENATOR BOB STORY, SD 12, Billings,** brought forward a bill which revises the schedule of block grants and delays implementation of the growth factor in the block grants for school districts, countywide school retirement, and countywide school transportation as set forth in present law. **SEN. STORY** explained the bill has two aspects: 1) in reference to last session's **HB 18**, which made adjustments to retirement and transportation schedules from **HB 124**, there have been concerns about large swings in numbers and with regard to errors in the reporting process, the bill returns money lost under the requirements of **HB 18** to counties; and, 2) at the behest of the Office of Budget & Program Planning, the bill withholds **HB 124's** growth factor.

**Proponents' Testimony:**

***{Tape: 1; Side: B; Approx. Time Counter: 28.7 - 29.8}***

**Kris Goss, Education Policy Assistant & Special Projects, OBPP,** expressed his office's support for the bill and appreciation to **SEN. STORY** for bringing it forward. He, too, stated the bill accomplishes two things: 1) it makes corrections to **HB 124** block grant formulas; and, 2) it delays the .76% growth rate for both county and school block grants for two years. The growth rate will resume in fiscal year 2006. He stated the bill is an integral part of the executive budget and is needed to balance the entire budget picture. He encouraged the Committee recommend Do Pass.

**Opponents' Testimony:**

***{Tape: 1; Side: B; Approx. Time Counter: 30 - 31}***

***{Tape: 2; Side: A; Approx. Time Counter: 0.2 - 2.6}***

**Tom Bilodeau, Director Research & Bargaining, MEA-MFT,** conveyed his organization's opposition to **SB 454** due to its' indexing feature. He stated his organization was concerned with **HB 124** for numerous reasons; those concerns are heightened by this bill.

**Bob Vogel, Director of Government Relations, MTSBA**, conveyed his organization's opposition to the bill. **Mr. Vogel** stated he is saddened to see this proposal come forward given discussions surrounding **HB 124**. He realizes the proposal only delays implementation of the growth factor, but he believes it disturbs people's confidence in state government when assurances are made and then promises broken.

**Informational Testimony:**

*{Tape: 2; Side: A; Approx. Time Counter: 2.7 - 5.4}*

**Harold Blattie, Assistant Director, MACo**, stated there are two points the Committee should consider. First, the delay of the growth factor is a tax shift on to local taxpayers. Second, with regard to changes in the dollar amounts of block grants, errors were made in the new reporting processes. With this legislation, each county will be reviewed despite being a somewhat arduous task. He requested the Committee keep these two things in mind because it will make things right for the counties.

**Questions from Committee Members and Responses:**

*{Tape: 2; Side: A; Approx. Time Counter: 5.6 - 13.7}*

**SEN. JOHNSON**, referring to the Governor's budget, asked whether this bill is contained within the Governor's budget because of the bill or is it there for another reason. **SEN. STORY** replied were the changes contained in **HB 2** there would be no fiscal note. Since there is a fiscal note, there has to be a way to get the money.

**SEN. JOHNSON** posed the same question to **Amy Carlson, Budget Analyst, OBPP**. **Ms. Carlson** explained the office knew about the bill, and, thus, incorporated it into the budget. It was not approved in the subcommittee because the bill had not passed.

**SEN. ZOOK**, referring to **Mr. Vogel's** testimony regarding the state not meeting its' obligations, asked how inaccurate reporting of non-levy revenue sources by counties to **OPI** can be attributed to the fault of the state. **Mr. Vogel** stated there are two components of the bill. One deals with errors made by county treasurers. The other component delays growth rates for schools. The growth rate for schools--a part of **HB 124**--was placed in the bill after long and arduous discussions to provide schools with some assurance there would be some growth over time. This is the aspect of the bill to which **MTSBA** objects so strongly.



**SEN. RYAN** asked, if the growth rate were not a part of this bill, where in the funding formula that money would go. In other words, under the block grant formula, where is money currently directed. **Ms. Carlson** replied all block grants go through **OPI** and are then distributed to the counties or school districts.

**SEN. RYAN** asked in what area of the budget are they found; i.e., GTB or under base budget. **Ms. Carlson** replied it depends on the fund being distributed to. In the general fund, it is treated as a non-levy revenue source. **SEN. RYAN**, again eliminating the growth rate issue, asked if there would be a different fiscal note attached to this bill and how much the state is saving by not meeting its' original promise. **Ms. Carlson**, referring to Assumption #5 of the fiscal note, indicated the bill will cost the state \$188,735. **SEN. RYAN**, again referring to the .76% increase not being given, asked what the impact to local taxes will be. **Ms. Carlson**, referring to Assumptions 9 & 10, stated the difference will be approximately \$550,000.

**SEN. RYAN**, referring to **Mr. Blattie's** testimony regarding a tax shift, asked him to expand upon his statement. **Mr. Blattie** explained the three funds being considered are permissive funds. Schools submit their budget requirements to county superintendents who then do the calculations necessary to determine how to generate the necessary dollars. Included in those calculations is the off-set of non-levy revenue.

**Closing by Sponsor:**

***{Tape: 2; Side: A; Approx. Time Counter: 13.9 - 15}***

**SEN. STORY** expressed appreciation to the various participants. He also explained the .76% growth rate used in **HB 124** was offered based on then present conditions. He noted local governments have a higher growth rate because they have gambling. Gaming and other resources allow for a slightly higher growth rate.

**EXECUTIVE ACTION ON SB 310**

***{Tape: 2; Side: A; Approx. Time Counter: 15.1 - 16}***

**CHAIRMAN BILL GLASER** explained this bill was never heard, however, a request was made to clear it from the books. He noted the bill is in his name and he does not intend to ever hear the bill.

**Motion/Vote:** SEN. ZOOK moved that SB 310 BE INDEFINITELY POSTPONED. Motion carried 9-0; with COONEY voting AYE via proxy, and ELLIOTT excused.

**EXECUTIVE ACTION ON SB 74**

*{Tape: 2; Side: A; Approx. Time Counter: 16.1 - 17}*

CHAIRMAN GLASER reminded the Committee this was a bill allowing school trust land to be used for school building sites. He explained the sponsor has indicated there may be an irreconcilable constitutional issue with the bill and has therefore requested its' withdrawal from consideration.

**Motion/Vote:** SEN. ZOOK moved that SB 74 BE INDEFINITELY POSTPONED. Motion carried unanimously; with COONEY voting AYE via proxy.

**EXECUTIVE ACTION ON SB 454**

*{Tape: 2; Side: A; Approx. Time Counter: 17.2 - 31.5}*

*{Tape: 2; Side: B; Approx. Time Counter: 2 - 4.4}*

**Motion:** SEN. STORY moved that SB 454 DO PASS.

**Discussion:**

**Motion:** SEN. MANGAN moved that SB 045401.ACE, A CONCEPTUAL AMENDMENT DO PASS.

**Discussion:**

SEN. MANGAN moved a conceptual amendment striking the growth factor delay language. He explained he is in opposition to this aspect of the bill because of discussions which occurred about HB 124. He noted school districts did not support HB 124, but agreed to it due to assurances being provided with regard to the growth factor. At the time, few parties felt the .76% factor was sufficient, however, no resources existed to make it higher. The commitment was there, however, that the growth factor would not be cut. SEN. MANGAN, noting his comments were not directed to SEN. STORY, stated this legislation disregards the process of negotiation and trust between the parties last session. He believes this type of behavior cannot continue year after year. Accordingly, he cannot support the measure.

**SEN. ZOOK**, noting the complexity of **HB 124**, explained numerous modifications had to be made during the intermission because statutory references were missed and so forth. He sees this legislation as a part of the fine tuning. Given information available at the time, the .76% growth factor was probably the best number. He does not believe anyone involved at the time could not have foreseen adjustments being necessary.

**SEN. STORY** indicated he carried this bill in order to correct the math problems. He stated **SEN. MANGAN** is correct in his assertions regarding the state's program which took charge of revenues formerly controlled at a local level. The state did say it would handle the money and simplify the process for everyone. That is where the .76% arose from, and there was no thought about having to put the .76% growth factor in abeyance. He noted the bill does shift an obligation to local taxpayers.

**SENATOR JIM ELLIOTT** asked **SEN. STORY** to repeat the last two sentences of his statement. **SEN. STORY** replied if you remove the block grant it leaves a hole in the budget which is generally filled by either local property taxes or a combination of local property taxes and state lien fees.

**SEN. ZOOK**, referring to the statement regarding a burden to local property taxes, stated the fiscal note indicates property taxes may or may not be higher than at present.

**SEN. RYAN** stated **HB 124** is a vote he wishes he could rescind. He did not like the bill, but voted for it because assurances were made regarding how money coming into the state would be returned to local governments and school districts. He did not vote for the bill thinking at any point in time when the state needs money they could put-off their promise. He believes we are putting off the promise until 2006, and when 2006 arrives the state will say "well you didn't need it then, so we can just keep the money." He believes the promises contained within **HB 124** are being broken, and agrees with **SEN. MANGAN** the growth factor delay should be removed from this bill. He does, however, agree with the first part of the bill.

**SEN. JOHNSON** asked **SEN. STORY** about the hole in the budget to which he referred. **SEN. STORY** replied there are three budgets effected by this bill. One is the general fund. A school district's general fund, due to its' nature, will realize an effect on local taxes. The retirement fund should remain about same. And, the transportation fund may have some slack depending on how a district handles the fund.

**Vote:** Motion to conceptually amend SB 454 carried 7-3 with COONEY voting AYE via proxy; SENS. BUTCHER, GLASER, and ZOOK voting NO.

**SEN. STORY** noted there is another conceptual amendment to the bill. He noted on page four, line 2, Sanders County, the number should be \$117,375 rather than \$14,442. On page six, line 10, Sanders County, the number should be \$69,930 rather than \$173,489.

**SEN. ELLIOTT**, noting he understands the amendment, stated he was pleased the error was found, however, he is concerned by errors which may not have been caught. He asked **SEN. STORY** for additional clarification. **SEN. STORY** deferred to **Ms. Carlson**. **Ms. Carlson** explained the person responsible for ensuring the Department of Revenue numbers were correct sent her a file with those numbers. Subsequent to him sending the file, Sanders County provided new numbers.

**Motion/Vote:** **SEN. STORY** moved that SB 045402.ACE, a conceptual amendment, DO PASS. Motion carried unanimously.

**Motion:** **SEN. STORY** moved that SB 454 DO PASS AS AMENDED.

**Discussion:**

**SEN. STORY** explained the bill now takes \$377,000 and redistributes it back to funds where errors were made.

**Vote:** Motion carried 8-2 with COONEY voting AYE via proxy; BUTCHER and ZOOK voting NO.

**EXECUTIVE ACTION ON SB 267**

*{Tape: 2; Side: B; Approx. Time Counter: 4.9 - 7.2}*

**CHAIRMAN GLASER** reminded the Committee this bill ended in a tie vote on Friday last.

**Motion:** **SEN. STORY** moved that SB 267 DO PASS.

**Discussion:**

**SEN. RYAN** stated, although he understands the need for bringing in new teachers, he believes there must be a better way to do so. He thinks this bonus will create a number of problems.

**CHAIRMAN GLASER** noted, due to its' nature, if passed out of the Committee the bill will probably be sent to Appropriations.

**SEN. ZOOK** stated, should that be the case, an invitation is extended to Committee members to address the issue.

**Vote:** Motion carried 6-4 with COONEY, via proxy, ELLIOTT, MANGAN, and RYAN voting NO.

**EXECUTIVE ACTION ON SB 441**

*{Tape: 2; Side: B; Approx. Time Counter: 7.4 - 11.5}*

**Connie Erickson** stated there were amendments to the bill.

**Motion:** SEN. RYAN moved that SB 441 DO PASS.

**Discussion:**

**Motion:** SEN. STORY moved that SB 044101.ACE DO PASS.

**Discussion:**

**SEN. STORY** stated the amendment drops the total amount of federal impact aid which may be encumbered to thirty-five percent (35%) from fifty percent (50%). He explained the sponsors did indicate their willingness to do so, and he was concerned that too much federal money may be tied up in revenue bonds.

**SEN. RYAN** stated he agreed with the amendment.

**Vote:** Motion carried unanimously, with COONEY voting AYE via proxy.

**Motion:** SEN. RYAN moved that SB 441 DO PASS AS AMENDED.

**Discussion:**

**SEN. STORY**, referring to page thirteen, subsection (4), stated he made numerous inquiries regarding why the language is included in the bill, however he had yet to receive an answer. He also stated the bond council indicated it does not matter either way.

**CHAIRMAN GLASER** explained, even if the language was not contained within the bill, the constitution has the same protections.

**SEN. STORY** also stated parties may not impair a contact once entered into, regardless.

**Vote:** Motion that SB 441 DO PASS AS AMENDED carried unanimously; with COONEY voting AYE via proxy.

**EXECUTIVE ACTION ON SB 369**

*{Tape: 2; Side: B; Approx. Time Counter: 11.9 - 15}*

*{Tape: 3; Side: A; Approx. Time Counter: 0.2 - 20}*

**Motion:** SEN. STORY moved that SB 369 DO PASS.

**Discussion:**

**SEN. STORY** noted there are two sets of amendments to the bill.

**Motion:** SEN. STORY moved that SB 036901.ACE DO PASS.

**Discussion:**

**Ms. Erickson** disseminated a summary she wrote for the first set of amendments.

**SEN. STORY** explained if the amendment were adopted, the bill would accomplish the three things listed in **Ms. Erickson's** summary.

**Ms. Erickson** stated there were several "glitches" in the amendment due to the bill's complexity and the complexity of the amendment. She noted there are areas where the amendment contradicts itself. Accordingly, should the amendment be adopted, a thorough analysis will be necessary to ensure its' viability.

**SEN. ELLIOTT**, referring to **Ms. Erickson's** summary, stated the explanations seem fairly brief and mysterious and asked **SEN. STORY** to provide a more detailed analysis of the scope and intent of the amendments. **SEN. STORY** replied the amendments distinguish those decisions which are policy from those which are administrative. The issues which are administrative in nature are stricken from the bill; thus, the process remains as written in current law. If it was a policy issue, and delineated within the Board's purview, then those sections, as well, were stricken because unnecessary. **SEN. ELLIOTT** stated his understanding was the intent of the bill was not changed by the amendments, only the distinction between policy and administrative issues. He

asked if his understanding was correct. **SEN. STORY** replied he disagreed with **SEN. ELLIOTT**. He believes the amendments change the intent of the bill significantly from its' original drafting language. The bill no longer attempts to remove a vast number of duties from the Superintendent and shift them to the Board. **SEN. ELLIOTT** inquired which duties are now left with the Superintendent. **SEN. STORY** replied all those that are administrative in nature; for example, writing checks, handling funds, dealing with reports, and so forth. There were not a tremendous number of duties which would be considered policy in nature; however, there are some the legislature has defined as administrative that he would define as policy.

**Ms. Erickson** referred **SEN. ELLIOTT** to pages fourteen and fifteen, Section 13, of the amendments, noting this section identifies the duties added to, and subtracted from, the Board of Public Education. She then referred to pages twenty-two through twenty-four, Section 18, indicating changes to the Superintendent's powers and duties can be found there. **SEN. ELLIOTT** stated the original bill deemed certain aspects of the statutes in need of correction which the amendments do not. **SEN. STORY** replied the original bill transferred numerous duties later determined administrative. **SEN. ELLIOTT** inquired what is the dire emergency necessitating the bill as now written. **SEN. STORY** replied it will be left to the Committee to determine "compelling urgency," the constitution simply places policy issues under the purview of the Board and the Superintendent's duties are assigned by the legislature.

**SEN. JOHNSON** requested permission to ask a question of **Mr. Steve Meloy, Executive Secretary, Board of Public Education**; without objection. **SEN. JOHNSON** asked whether **Mr. Meloy** had seen the amendments. **Mr. Meloy** replied he had not seen the amendments, but he had seen the original language changing the Board membership. **SEN. JOHNSON** asked whether the original language of that section is still in the bill. **Ms. Erickson** replied in the affirmative with the exception of language pertaining to the Superintendent's being the Executive Secretary to the Board of Public Education. **SEN. JOHNSON** inquired how the new language effects the make-up of the Board. **Mr. Meloy** replied the new language effects the Board only in that it adds one new layperson and one new representative of the educational community. **SEN. JOHNSON** indicated one of the smallest, and yet most difficult, budgets the legislature oversees is the budget for the Board of Public Education, noting he often supports increasing its' funding due to the extensive nature of their duties. He asked **Mr. Meloy** about the changes being proposed. **Mr. Meloy** replied when the Board makes changes to policy they do so in accordance

with the Administrative Procedures Act. With additional duties being conveyed, he would hope there will be additional funds. Whenever a rule change or policy change is needed, there are numerous parties who must be notified, in addition to the public, as well as a public hearing that must occur.

**SENATOR EDWARD BUTCHER** asked whether some proposed changes might simply be noticed; i.e., there really is no need for a full public hearing. **Mr. Meloy** replied there are many requirements that can be met through less formal mechanisms. He provided the Committee with several examples where departments either could be more efficient, or may be in need of additional funding.

**Ms. Erickson**, referring to page eleven of the amendment, Subsection (6), indicated "consultation" is defined.

**SEN. MANGAN**, referring to pages twenty-four and twenty-five of the amendment, asked why the appeals process has been moved to the Board's duties. **SEN. STORY** replied, generally speaking, with any administrative agency a public board is the place to seek a final appeal rather than a particular person. **SEN. MANGAN** inquired whether there is a fiscal impact associated with this shift. **SEN. STORY** replied, although uncertain of the number of appeals currently handled, **OPI** would be funded for the process; so there should not be any additional cost.

**SEN. RYAN** stated he is in opposition to the bill and the amendment. Although he agrees with **SEN. STORY** regarding the need for determining correct assignments, he believes the presentation of this bill and its' amendment are grossly unfair given the amount of time available. He does not believe any member of this Committee has a leg to stand on with regard to accountability given the length and scope of the bill. He also does not believe any member of the Committee understands the bill, and to pass it to the full body is a great disservice.

**SEN. JOHNSON** asked if **SEN. RYAN's** comments were addressed to the original bill. **SEN. RYAN** stated he was referring to information provided by **Jay Erdie**. **SEN. JOHNSON** asked if it would be appropriate to do a committee bill and request a fiscal note. **CHAIRMAN GLASER** indicated there is a fiscal note which indicates a cost of approximately \$1,000 per month.

**SENATOR MIKE COONEY**, noting his absence to this point in the meeting due to other obligations, stated the summary provided by **Ms. Erickson** provides a good explanation. However, the summary does not identify that the Superintendent will no longer be a member of the Board of Canvassers. This means a designee of the Board of Public Education joins the Attorney General and the



State Auditor in being the Board of Canvassers. This single issue concerns him greatly; even beyond the length and volume of the bill. He does not believe, given present time constraints, that he can support or do justice to this legislation.

**SEN. MANGAN**, referring to the fiscal note, stated he could not locate the \$1,000 per month figure. He also inquired whether the fiscal note would apply to the bill as amended. **SEN. STORY** replied he was not certain about the assumptions used by the auditor's office. He stated **Madalyn Quinlan, Chief of Staff, OPI**, may know the answer. **SEN. MANGAN** again inquired whether the fiscal note is consistent with the amendments. **Ms. Quinlan** replied the fiscal note is consistent with the original bill. The bottom-line impact to the general fund is fairly small because major transfers will occur from one agency to another. This aspect does not correlate to the bill as amended. **SEN. MANGAN** indicated, given **Ms. Quinlan's** response, the Committee had no idea what the cost of the bill actually is. **SEN. STORY** stated **SEN. MANGAN's** assertion was basically correct, however, since very few new duties are created, the bill merely transfers duties from one agency to another so costs would be minimal.

**SEN. ELLIOTT** stated he will vote against the amendments and the bill, but not based on its' merits. He indicated he has worked on complex legislation, and observed complex legislation being worked on. It has been his experience when legislation is of that nature it goes through a very deliberative process where consequences are assessed and a policy purpose is definitive. The legislation has a reason for being, and a means for accomplishing the reason. He believes that process works, and does not believe this bill has been subjected to the rigors of that process. He remains uncertain of the problem being addressed by the bill, and, even if he were certain, he is not certain how this bill addresses the problem. He is also uncertain why the original bill has been changed. He sees the bill as a poor product of a good system. Therefore, based solely on that reason, he will not vote for the bill.

**SEN. MANGAN**, again stating his opposition, stated he would like to renew his original suggestion regarding the bill being placed in an interim committee.

**SEN. STORY** stated he agreed with **SEN. MANGAN** this bill may need further study. He believes the bill has some very important aspects, but has no desire to send out bad legislation. He would like to see the legislation accomplish its' original goals, and would prefer a good product be offered.

**Motion/Vote:** SEN. MANGAN moved that SB 369 BE INDEFINITELY POSTPONED. Motion carried unanimously.

SEN. MANGAN, noting his unfamiliarity with specific requirements, requested staff be directed to develop a committee study resolution on the topic of the bill. Ms. Erickson stated it was too late for the Committee to request a resolution; an individual, however, may request a resolution until the seventy-fifth day. SEN. MANGAN requested SEN. STORY do so.

**EXECUTIVE ACTION ON SB 278**

*{Tape: 3; Side: A; Approx. Time Counter: 21.4 - 31}*

*{Tape: 3; Side: B; Approx. Time Counter: 2.1 - 7.7}*

**Motion:** SEN. BUTCHER moved that SB 278 DO PASS.

**Discussion:**

SEN. BUTCHER requested a conceptual amendment be made to remove "or more advanced" from line 18.

**Motion:** SEN. BUTCHER moved that SB 027801.ACE DO PASS.

**Discussion:**

SEN. COONEY inquired whether there was a problem with the term "if appropriate," as well.

SEN. BUTCHER replied in the negative, noting a student must take a course which is similar to the requirement for graduation.

**Vote:** Motion carried unanimously.

**Motion:** SEN. BUTCHER moved that SB 278 DO PASS AS AMENDED.

**Discussion:**

SEN. COONEY asked SEN. BUTCHER for additional clarification on the ANB portion of the bill. SEN. BUTCHER explained in the case where a student is taking a qualifying course he does not want the high school to lose ANB.

A brief discussion occurred regarding SEN. BUTCHER's intent with regard to the ANB guarantee.

Vote: Motion failed 4-6 with BLACK, BUTCHER, GLASER, and ZOOK voting AYE.

Motion/Vote: SEN. ZOOK moved that SB 278 BE INDEFINITELY POSTPONED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 411

*{Tape: 3; Side: B; Approx. Time Counter: 8 - 31}*  
*{Tape: 4; Side: A; Approx. Time Counter: 0.2 - 5}*

Motion: SEN. ZOOK moved that SB 411 DO PASS.

Discussion:

Motion: SEN. GLASER moved that SB 041101.ace DO PASS.

Discussion:

SEN. GLASER explained the amendment removes certain words which he felt served no purpose to the definition. He briefly discussed each of the terms removed.

Vote: Motion to DO PASS SB 041101.ace carried unanimously.

Motion: SEN. GLASER moved that SB 411 DO PASS AS AMENDED.

Discussion:

SEN. COONEY stated his understanding is the Board of Public Education has developed certain standards which are currently being used to define quality education. The standards are the base, with local districts having authority to go beyond the standards. He is concerned this definition will be seen as a ceiling because it is coming from the legislature. He wonders, then, if the legislation will accomplish the stated goal. He asked SEN. GLASER to address that concern.

SEN. GLASER, indicating he has been a part of the legislative body since 1985, stated since that time people have used the idea of defining quality education to get by. Once he was presented with a proposed definition, he concluded a broad definition was appropriate. By putting forth a definition which make a

statement about how the legislature sees education is important. He does not see the definition as creating any type of boundary.

**SEN. COONEY** stated he met with **Ms. Wandler** over coffee, and noted she is a very sincere individual and this is a big issue for her. He expressed appreciation to **SEN. GLASER** for taking on the issue, and hopes the definition will not be either too narrow or too broad. Although he understands there are no guarantees, he is concerned.

**SEN. GLASER** stated the constitution gives authority to the state board and to local boards, and the constitution says "as defined by law," this creates very confusing results. The fight has been going on for twenty years, and he felt it was necessary to do something. Something which creates a structure the state board can then go about filling. He would like to see the bill debated on the full floor, and would like to see it advance to the House.

**SEN. ELLIOTT** requested permission to ask a question of **Bob Vogel, MTSBA**; without objection. He stated the bill is defines what the constitution means; a determination which will eventually be made by the Supreme Court. He would like to know, if presented with a challenge in court, would the legislature's definition withstand scrutiny. **Mr. Vogel** stated he did not feel qualified to answer the question.

**SEN. ZOOK** stated his understanding of the constitution is the legislative branch sets policy, the executive puts those policies into effect, and the judicial branch determines whether those policies were constitutional. Unfortunately, there is always uncertainty as to how the court will rule on a particular issue.

**SEN. BUTCHER** believes the only people who are qualified to define quality education are those teaching in the classrooms. When attempts are made--regardless of by whom--to define something like this, those attempts will be futile. He stated every kid is different, every need is different, and the quality of the education will determine the outcome.

**SEN. GLASER** stated the only person in the classroom who has constitutional rights is the child. Teachers do not have constitutional rights in this regard, only children. He again discussed the quarrel which has continued since his arrival at the legislature between various parties, and stated he would like there to be something in statute which gives direction and with which the Supreme Court could agree.

**SEN. MANGAN**, conveying his understanding of **SEN. GLASER's** intentions and referring to terminology contained in the state's constitution, stated we are attempting to define quality education for the Supreme Court. While he intended no offense, he does not believe the legislature can do so any more than the legislature can make a laundry list of what it means to have a "clean and healthful environment," or create a definition of what are "life's basic necessities." He does not believe it is the job of the legislature to even attempt doing these things. Accordingly, he cannot support the bill.

**SEN. BUTCHER**, referring to **SEN. MANGAN's** statements regarding terminology contained within the constitution, said the problem arises from the terminology of the constitution itself. Many of these terms are not definable, and only allow for numerous lawsuits to be filed and continuous haggling for years over definitions. He stated this is the flaw and the problem. However, since this language is as good as possible, he supports the bill.

**SEN. ELLIOTT** stated there has been a vast amount of adjudication relating to the "free speech" clause; clearly more than over the question of "a quality education." Referring to page three, lines 7 and 11, he asked whether these two lines could not be interpreted by the Supreme Court as requiring the provision of things far beyond our economic means.

**SEN. ZOOK** believes the legislature has as much authority to define quality education as any attorney. He also believes the definition will change over time. Conceding he is not an attorney, he thinks this is a reasonable definition and one which he would have no problem defending.

**SEN. MANGAN**, indicating he does not know whether the language is constitutional or not, stated he does not think "free quality education" is a definition which should be set. It is something which changes over time.

**SEN. JOHNSON** thinks certain aspects of the definition are actually established standards. He does not believe this legislation will harm anyone.

**Vote:** Motion to DO PASS SB 411 as amended carried 7-3 with **ELLIOTT, MANGAN, and RYAN, via proxy, voting NO.**

**SEN. MANGAN** indicated **Majority Leader, SENATOR FRED THOMAS**, requested the Committee evaluate **SB 299** once again to see if possibly an amendment might cure its' problems. He stated he

spoke with staff and there does not seem to be anyway to close the "hole" created by the exception, and he has no suggestions. He asked if any member of the Committee was able to suggest an answer.

There were no replies.

**ADJOURNMENT**

Adjournment: 6:30 P.M.

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SEN. BILL GLASER, Chairman

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TARI ELAM, Secretary

BG/TE

**EXHIBIT** (eds41aad)